



भारत का चार्टपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 26]

नई दिल्ली, बृहस्पतिवार, मई 16, 2002/ वैशाख 26, 1924

No. 26]

NEW DELHI, THURSDAY, MAY 16, 2002/ VAISAKHA 26, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 16th May, 2002.

BILL NO. XXXVI OF 2002

A Bill further to amend the Payment of Wages Act, 1936.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

1. (1) This act may be called the Payment of Wages (Amendment) Act, 2002.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. In section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the principal Act), in sub-section (6), for the words "one thousand six hundred rupees", the words "six thousand five hundred rupees," shall be substituted.

Substitution of references to certain expressions by other expression.

3. Throughout the principal Act, unless otherwise expressly provided for, the expressions "the Central Government or a State Government" and "the State Government", wherever they occur, the expression "appropriate Government" shall be substituted and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment
of section 2.

4. In section 2 of the principal Act,—

(a) clauses (i), (ia) and (ib) shall be re-numbered as clauses (ia), (ib) and (ic), respectively, and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:—

(i)"appropriate Government" means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government,';

(b) for clause (v), the following clause shall be substituted, namely:—

'(v)"railway administration" has the meaning assigned to it in clause (32) of section 2 of the Railways Act, 1989.'.

24 of 1989

Substitution
of new
section for
section 3

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

Responsibility
for payment
of wages.

"3. Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,—

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948;

63 of 1948

(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishment;

(c) upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;

(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and

(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act,

the person so named, the person responsible to the employer, the persons so nominated or the person so designated, as the case may be, shall be responsible for such payment.".

Amendment
of section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (1), for the words, brackets and figures "sub-section (2) of section 47 of the Indian Railways Act, 1890", the words and figures "the Railways Act, 9 of 1890, 1989" shall be substituted;

24 of 1989

(b) in sub-section (2),—

(i) for clause (e), the following shall be substituted, namely:—

'(e) deductions for such amenities and services supplied by the employer as agreed to between the employer and the employed person.

Explanation—The word "services" in this clause does not include the supply of tools and raw materials required for the purposes of employment,';

(ii) in clause (ff), for the words "in accordance with the rules approved by the State Government", the words "as agreed to between employer and employed person" shall be substituted;

(iii) in clause (ff), for the words "approved by the State Government", the words "as agreed to between employer and employed person" shall be substituted;

11 of 1922. (iv) in clause (i) for the words figures and letter "in section 58A of the Indian Income-tax Act, 1922 or any provident fund approved in this behalf by the State Government, during the continuance of such approval", the following words, brackets and figures shall be substituted, namely:—

43 of 1961 "In clause (38) of section 2 of the Income-tax act, 1961 or any provident fund as agreed to between employer and employed person.";

(v) in clause (j), for the words "approved by the State Government or any officer specified by it in this behalf", the words "as agreed to between employer and employed person" shall be substituted;

(vi) in clause (kk), for the words "and approved by the State Government or any officer specified by it in this behalf during the continuance of such approval", the words "as agreed to between employer and employed person" shall be substituted;

9 of 1890. (c) in sub-section (4) for the words and figures "the Indian Railway Act, 1890",
24 of 1989 the words and figures "the Railways Act, 1989" shall be substituted.

7. In section 8 of the principal Act, in sub-section (6), for the words "sixty days", the words "ninety days" shall be substituted. Amendment of section 8

8. In section 15 of the principal Act,— Amendment of section 15

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The appropriate Government may, by notification in the Official Gazette, appoint—

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,—

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years' experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate,

as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being

heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding two thousand rupees but not less than one thousand rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any *bona-fide* reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person; or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(c) the failure of the employed person to apply for or accept payment.;

(iii) in sub-section (4), for the words "not exceeding fifty rupees" wherever they occur, the words "not exceeding two hundred fifty rupees" shall be substituted.

9. In section 20 of the principal Act,—

(a) in sub-section (1), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees, and in the event of a second or subsequent conviction with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees" shall be substituted;

(b) in sub-section (2) for the words "with fine which may extend to five hundred rupees", the words "with fine which may extend to two thousand five hundred rupees, and in the event of a second or subsequent conviction with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees" shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Whoever being required to nominate or designate a person under section 3 fails to do so, such person shall be punishable with fine which may extend to two thousand rupees.;"

(d) in sub-section (3), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees, and in the event of a second or subsequent conviction with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees" shall be substituted;

Amendment
of section 20.

(e) in sub-section (4), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees and in the event of a second or subsequent conviction with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees" shall be substituted;

(f) In sub-section (5), for the words "with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees", the words "with fine which shall not be less than two thousand five hundred rupees but which may extend to fifteen thousand rupees and in the event of a second or subsequent conviction with a fine which shall not be less than fifteen thousand rupees but which may extend to thirty thousand rupees" shall be substituted.

10. For section 24 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 24.

"24. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction be also exercisable—

Delegation of
powers

(a) Where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) Where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.”.

11. In section 26 of the principal Act,—

Amendment
of section 26

(a) In sub-section (4), for the words "which may extend to two hundred rupees", the words "which shall not be less than five hundred rupees but which may extend to one thousand rupees" shall be substituted;

(b) After sub-section (6), the following sub-section shall be inserted, namely:—

"(7) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.”.

STATEMENT OF OBJECTS AND REASONS

The Payment of Wages Act, 1936 was enacted with a view to ensuring that wages payable to employed persons covered by the Act were disbursed by the employers within the prescribed time limit and that no deductions other than those authorised by law were made by them. The last amendment was made in 1982 and several provisions of the Act have become obsolete over the years. Many proposals have been received by the Government for amending various provisions which are creating practical difficulties in enforcement of this Act. In order to bring this law in uniformity with other labour laws as also to make it more effective and practicable, it is proposed to make, *inter alia*, the following changes:—

(i) **Enhancing the wage ceiling of Rs. 1600 per month to Rs. 6500 per month:** The then existing ceiling of Rs. 1000 per month was last revised to Rs. 1600 per month in 1982. Since then a large number of employed persons have gone out of the purview of the Act due to successive rise in wages levels resulting from rise in the cost of living. Thus, with a view to covering more employed persons, it is proposed to enhance the wage ceiling from Rs. 1600 per month to Rs. 6500 per month.

(ii) **To substitute the expressions “the Central Government” or “a State Government” by the expression “appropriate Government”:** In Parliamentary enactments relating to labour, other than the Payment of Wages Act, 1936, the enforcing authorities are either the Central Government or the State Governments depending upon the nature of industry. However, for implementing the Payment of Wages Act, 1936, matters are referred to the State Governments and quite often action required to be taken by them is delayed. In order that this law is in conformity with the other labour laws, it is proposed to introduce the concept of “appropriate Government”.

(iii) **Removing the ambiguities/weakness from the extant provisions of the Act and prescribing more effective grievance redressal:** Over the years, it has been noticed that certain provisions of the Act have been differently interpreted thus leading to administrative difficulties in implementing the same. In order to remove ambiguities, appropriate changes are being proposed in sections 3, 7, 8 and 15 of the Act which respectively deal with responsibility for payment of wages, deductions from wages, fines and claims in certain cases.

(iv) **Strengthening compensation and penal provisions of the Act:** The penal provisions of the Act have become almost insignificant due to passage of time as well as decrease in money value since these provisions were last amended in 1982. It is, therefore, proposed to make the penal provisions more stringent by enhancing the quantum of penalties by amending section 20 of the Act.

2. The Bill seeks to achieve the above objects.

SHARAD YADAV.

R.C. TRIPATHI,
Secretary-General.